

Restriction has been required between what the PTO deems to be two (2) patentably distinct inventions. As an election must be made even though the requirement is traversed, applicant hereby provisionally and respectfully elects Group I, presently claims 1 and 2, with traverse and without prejudice.

The PTO recognizes that normal U.S. restriction practice does not apply, and instead PCT unity-of-invention rules are applicable for the present application. The PTO concludes that there is lack of unity-of-invention because Groups I and II do not relate to a single general inventive concept because they lack the same or a correspondingly special technical feature, it being the PTO position that the only common feature is shown to be old in the prior art. Applicant disagrees with and respectfully traverses the position of the PTO for the reasons pointed out below by the applicant with regard to each of the citations.

In particular, the present invention provides a film having a semi-elliptical (half of an ellipse) cross section as stated at page 4, line 12, and in more detail at page 6, e.g. lines 3 and 9. This is a common feature of both groups of claims, and is not shown by the prior art (and therefore is a single general inventive concept). Please consider the comments below regarding the citations:

Palumbo USP 4,780,352

... the holes 9 are opened by a perforating or punching action effected starting from the face of a coating structure 5 destined to be oriented towards the exterior of the product.

The layered ribbon 5' is then forwarded to a perforating station, globally indicated as 25, constituted by two superposed rollers 26, 27 with parallel and mutually counter-rotating axes. The lower roller 27, which serves as a rotary support for the ribbon 5', has a generally smooth surface. The upper roller 26 instead is provided with teeth or projections, ordered according to an array corresponding to that of the holes 9 that are to be opened in the ribbon 5.

The described process allows one to obtain the claim layer if such layer is constituted by superposed layers having an evident thickness (in total 350µm the thickness and 40 gr/m² the weight).

What happens is that the teeth of the roller 26 penetrate inside such thickness, holing the layer and creating the holes 9, **but without changing the initial thickness.**

During the entry and exit action, the teeth define portions of layer 13 having a face 13a (page 16) that *is globally curved with convexity oriented towards the exterior of the structure 5. Such a curved configuration facilitates the penetration of the fluids inside the holes 9.*

But if the layer does not have an evident thickness as in the case of applicant's films (or as their layer 11),

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the teeth of the roller 26 do not penetrate inside the thickness of the film but create holes only in the form of two-dimensional lacerations without changing the initial thickness which remains of a few microns. With applicant's process, instead the base film during the holing phase acquires an evident thickness passing from a few microns (25 μ) to 15/20 times the initial thickness and, more importantly, **passing from a flat to a three-dimensional shape.**

The most evident difference between the structure of Fig. 4 and that of Fig. 5 derives from the fact that in the variation of Fig. 5 the outer surface of the layer has a **more accentuated curvature**, which allows a **better penetration of the fluids...** Another difference, already highlighted previously, consists of the fact that the holes 9, instead of being square, **are circular or slightly elliptical,...**

Applicant's elements are not just **slightly** elliptical, but **clearly** elliptical. They are so clearly elliptical, in fact, that applicant describes exactly how the profile of the element is included in the profile of the ellipse rather than in the profile of a cone. In any case, to the extent the Palumbo profiles are slightly elliptical, or curved as per the face 13a of the layer 10 of Fig. 4, they are so only in the direction of advance of the layer by effect of the entry and of the exit of the teeth of the roller 26 and

said profile represents only an uncontrolled variation, a consequence of the effect just described of the process of Fig. 6, known in itself. In fact, Palumbo states that the advantage of the process of Fig. 6, in addition to that of favoring the formation of the thickened area 10a, is that it gives a curved general profile (column 7, lines 60-67) to the face 13a of the walls. But in the transverse direction to the direction of advance of the layer, the profiles of the elements are certainly straight and the holes 9 are square as shown in Fig. 4.

The elements of applicant's film instead have an elliptical figure, or an elliptical profile in every direction in which the section of the layer is effected.

DE 2948376 (corresponds to Reimersma et al USP 4,272,473)

The final product resulting from the application of this prior art method through the use of the apparatus discussed above produces an embossed and perforated film like the one in Figures 5, 6 and 7, having a cone frustum disposition, aligned according to the vertices of a triangle, with the upper surface open.

The triangle has a base C of 1.02 mm (coinciding with the distance between the centers of the cone frustums) and an angle E of 90°. Undersigned does not see that this document discloses a semi-elliptical configuration. However,

to the extent that the disclosed process inherently produces a slightly elliptical configuration, then each cone is only slightly elliptical with the greater axis, of 0.305 mm, in the direction of advance of the film and the smaller axis, of 0.279 mm, in the perpendicular direction. The height of the cones of the film is slightly smaller than that of the cones of the roller 16.

It is important that the ellipses in DE '376 have as a base the greater axis and not the smaller axis as in the present invention. In this way, a very large bridge is defined, especially in relation to the thickness of the matrix. The higher the thickness of the matrix the greater the width of the bridge. Lateral walls thus open prevent the fluid from rapidly penetrating in the vertical direction downwards, making it travel a longer path according to the amplitude of the angle E. The present invention in fact aims to solve this problem in order to have curved bridges with a very narrow summit.

EP 0 138 601 A

The limitations of conical openings defined by elements having rectilinear and diverging lateral walls were discussed at length in our parent application -see page 3, from line 15 further on.

Moreover, the applicant points out that:

the diameter on the openings 141 is greater than the diameter on the openings 143, which

in turn is greater than the diameter openings 143, etc...., until the end through the laminations 153 and 154. The resulting laminated structure 240 provides a regulated model of openings of substantially conical shape extended from the upper lamination 150 to the lower lamination 154.

Claims 1 and 2 have been amended above. Claim 1 now brings out more clearly the difference between the present invention and the prior art, previously already recited in claim 2.

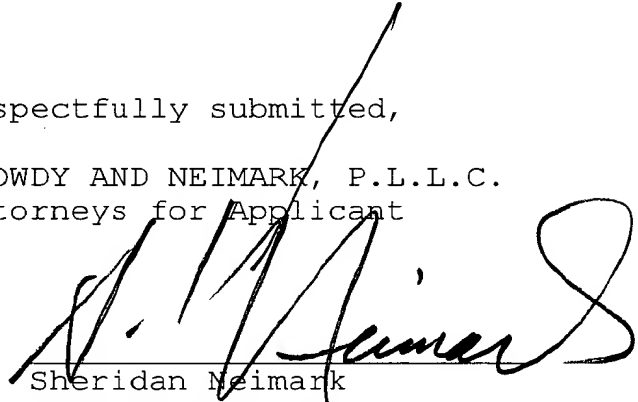
The Group II claim depend from and incorporate the subject matter of claim 1 and therefore, as previously noted, the two groups have the same corresponding special technical feature, and the restriction requirement should be withdrawn. Such is respectfully requested.

Applicant respectfully awaits the results of a first examination on the merits.

Respectfully submitted,

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Version with Markings to Show Changes Made

1. (amended) Film made of holed plastic material three-dimensionally shaped, having an upper surface presenting a multiplicity of opening extending in the form of through holes in the direction of a lower surface of the same film; mutually adjacent through holes being separated by segments of said film having a profile with symmetrical sides converging towards the upper surface, characterized in that said profile of the film segments has ~~a conic shape as a~~ a semi-ellipse cross-section.

2. (amended) Film made of holed plastic material according to claim 1, characterized in that said semi-ellipse cross section profile of the film segments ~~has as a cross-section a semi-ellipse with a~~ lesser axis equal to the lesser diameter and lying on the lower surface of the film itself and with the vertex, relating to the greater axis, on the upper surface of the film itself.